

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION  
[Electronically Filed]

ROSEMARY MEREJKA and  
DANITA HENDERSON,

*Plaintiffs,*

V.

Case No. 4:22-cv-00032

JACOB PHILLIPS and  
PAYNE ELECTRIC CO., INC.,

*Defendants.*

## **NOTICE OF REMOVAL**

Defendants Jacob Phillips and Payne Electric Co, Inc., pursuant to 28 U.S.C. 1332(a)(1) and 28 U.S.C. 1441(a), hereby remove to the United States District Court for the Southern District of Indiana, New Albany Division, the action captioned *Rosemary Merejka and Danita Henderson v. Jacob Phillips and Payne Electric Co., Inc.*, Cause No. 10D06-2201-CT-000002, which is currently pending in Clark Superior Court No. 6 in the State of Indiana. As grounds for removal of this action, Defendants state as follows:

1. On January 11, 2022, Plaintiffs Rosemary Merejka and Danita Henderson filed their Complaint in Clark Superior Court No. 6, Cause No. 10D06-2201-CT-000002, seeking damages from Defendants Jacob Phillips and Payne Electric Co., Inc., for alleged injuries sustained in a motor vehicle accident that on or about December 8, 2021, in Clark County, Indiana.

2. Plaintiff Rosemary Merejka is a resident of Clark County, Indiana, and is, therefore, a citizen of the State of Indiana.

3. Plaintiff Danita Henderson is a resident of Franklin County, Ohio, and is, therefore, a citizen of the State of Ohio.

4. Defendant Jacob Phillips is a resident of Shelby County, Kentucky, and is, therefore, a citizen of the Commonwealth of Kentucky.

5. Defendant Payne Electric Co., Inc., is a Kentucky corporation with its principal place of business located at 5802 Fern Valley Road, Louisville, Kentucky 40228, and is, therefore, a citizen of the Commonwealth of Kentucky. [See Ex. 2, Payne Electric Co, Inc., Business Details on File with Kentucky Secretary of State.]

6. This action is one over which this Court has original jurisdiction pursuant to 28 U.S.C. 1332(a)(1), and is one that may be removed to this Court pursuant to 28 U.S.C. 1441(a). All plaintiffs are diverse from all defendants and this is, therefore, an action between citizens of different states.

7. Defendants were served with Plaintiffs' Complaint on or about January 14, 2022. Defendants timely responded to the Complaint on February 4, 2022.

8. While the parties' respective citizenship is evident from the face of the Complaint, the amount in controversy was not.

9. In their respective responses to Requests for Admission propounded by Defendants served on February 16, 2022, Plaintiffs Rosemary Merejka and Danita Henderson both unequivocally denied a Request asking them to "Admit [they] will not seek, recover, or collect from Defendants a sum in excess of \$75,000.00 for the claims asserted in this action." [See Ex. 3, Plaintiffs' Responses to Request for Admission.] Accordingly, Plaintiffs are seeking damages well in excess of the minimum amount required for this Court to exercise original jurisdiction under 28 U.S.C. 1332(a)(1).

10. The removability of this action was not ascertainable to Defendants until Plaintiffs responded to the Requests for Admission on February 16, 2022. *See* 28 U.S.C. 1446(b)(3) (“[I]f the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.”). This Notice of Removal is, therefore, filed within thirty (30) days of the date upon which Defendants could first ascertain that this case is one that could be removed to this Court.

11. All pleadings filed in the state court proceedings are attached hereto as Collective Exhibit 1.

12. A copy of this Notice of Removal will be filed with the Clerk of the Clark Superior Court and served upon counsel of record.

**DATED: March 14, 2022.**

Respectfully submitted,

**WILSON, ELSER, MOSKOWITZ, EDELMAN  
& DICKER, LLP**

/s/ Edward M. O'Brien

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*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 14, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. I also certify that a true and accurate copy of the foregoing was served via certified U.S. Mail upon the following:

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*/s/ Edward M. O'Brien*  
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*Counsel for Defendant*